

United States District Court  
for the

WESTERN

DISTRICT OF

OKLAHOMA

**FILED**  
JUN 3 2014  
GARMELITA REEDER SHINN, CLERK  
U.S. DIST. COURT WESTERN DIST. OKLA.  
BY SK DEPUTY

United States of America,

v.

Kelly Lee Moyers,  
a/k/a Kelly Ham,

Case No: M-14- 208-SM**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of June 1, 2013, and continuing through on or about May 28, 2014, in the county of Oklahoma, in the Western District of Oklahoma, the defendant violated:

<i>Code Section</i>	<i>Offense Description</i>
Ct. 1 -- 21 USC § 841(a)(1) – Hydrocodone, Schedule III	Possession of a Controlled Substance with Intent to Distribute
Ct. 2 -- 21 USC § 841(a)(1) – Soma, Schedule IV	Possession of a Controlled Substance with Intent to Distribute
Ct. 3 -- 21 USC § 843(a)(3)	Acquire or Obtain Possession of a Controlled Substance by Misrepresentation, Fraud, Forgery, Deception, or Subterfuge

This criminal complaint is based on these facts:

See attached Affidavit of Diversion Investigator Gary Lawson of the Drug Enforcement Agency which is incorporated and made a part hereof by reference.

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence.

Date: June 3, 2014

City and State: Oklahoma City, Oklahoma

  
Complainant's signature  
Gary Lawson  
Diversion Investigator  
Drug Enforcement Agency

  
Judge's signature

Suzanne Mitchell, U.S. Magistrate Judge  
Printed name and title

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**AFFIDAVIT**

Affiant, Investigator, Gary Lawson, being duly sworn, deposes and states the following:

1. I am presently employed by the United States Department of Justice, Drug Enforcement Administration (DEA), and have been so employed since 1998. The entirety of my DEA employment has been in the Oklahoma City District Office. During my tenure as a DEA Investigator, I have both participated in and led investigations into the illegal distribution of controlled substances. I have also received specialized training related to the illegal distribution of controlled substances in violation of Title 21, United States Code Section 841.
2. Based on my years of experience, I know that individuals that are addicted to, and individuals seeking to resell, controlled substances visit physicians for the purpose of obtaining prescriptions for their desired controlled substances. Controlled substances that should be taken for pain management (painkillers), but are often taken for an individual to achieve a feeling of euphoria or to “get high,” are a common category of narcotic prescriptions that are sought.
3. One of the most prevalent and abused narcotic prescriptions is for hydrocodone, an opiate drug. Some of the most common hydrocodone brand names include Norco, Lortab, Lorcet and Vicodin. Hydrocodone is a semi-synthetic opioid medication available by prescription for relief of moderate to moderately severe pain with qualities similar to morphine. Hydrocodone compounds such as hydrocodone and acetaminophen or hydrocodone and ibuprofen are listed as schedule III controlled substances and commonly prescribed in dosage units of 5mg, 7.5mg and 10mg tablets.

4. Hydrocodone is abused for its opioid effects as it is generally abused orally, often in combination with other drugs and/or alcohol. It is common to find individuals seeking particular combinations of controlled substances or “cocktails” that are known to also produce a feeling of euphoria or a “high” when taken in combination with each other. A combination that is commonly seen is a mixture of hydrocodone and carisoprodol (Soma). Carisoprodol, or Soma as it is typically called, is a muscle relaxant available by prescription only. Carisoprodol is a schedule IV controlled substance and is commonly prescribed in a 350mg tablet.

5. Affiant knows, through training and experience, those individuals who traffic and/or abuse controlled substances, such as hydrocodone and Soma will seek to obtain large and frequent quantities from multiple prescribers. This practice of drug seeking is often referred to as “doctor shopping.” Once the individual has obtained the prescriptions, he or she will often travel to different pharmacies to have the prescriptions filled. This practice is used as a means to obtain large and frequent quantities in an attempt to avoid detection by the pharmacy. These transactions are often paid for in cash. This activity is commonly referred to as “smurfing” or “pharmacy shopping.”

6. In order to obtain additional drug quantities the drug seeker(s) will also copy a physician’s prescription and change or alter the information such as the patient name, date and amount of drug(s) prescribed. This practice is referred to as “washing” or “script washing.”

7. Affiant has knowledge of the facts contained herein from training and experience, personal knowledge of this investigation, a review of investigative reports, and information that affiant obtained from DEA personnel, local law enforcement officers, physicians and pharmacists, and sources of information.

8. On April 28, 2014, affiant was contacted by Walmart Pharmacist Jeremy Garrett regarding the diversion of drugs by Kelly Lee MOYERS, aka: Kelly MOWERS, aka: Kelly HAM. Pharmacist Garrett stated the staff at the Walmart at Danforth and Santa Fe (Edmond, OK) became suspicious after MOYERS presented a Michigan driver's license with several illegible letters and numbers on a prior prescription that she had filled. Pharmacist Garrett advised he contacted Dr. Kyle Winkler's office and was told the prescriptions under the name Kelly MOWERS, DOB: 09/04/1968, had been forged. Pharmacy staff then conducted a prescription history report using "Kelly M 09/04/1968" which resulted in various forged or unauthorized prescriptions allegedly written by Dr. Winkler, all of which contained MOYERS Michigan license number or a slight variation of the number. It has been determined that Dr. Winkler only saw MOYERS on two occasions for an insect bite, first on November 3, 2013, and again on November 10, 2013. Dr. Winkler only wrote prescriptions for MOYERS in November 2013.

9. Using information provided by Walmart pharmacy staff, affiant conducted prescription history searches using MOYERS Michigan and Oklahoma license numbers and names used by MOYERS. This search identified over 300 instances of controlled substance prescriptions she filled from January 2010 thru May 2014 with approximately forty (40) different prescribers. In at least seventy-five (75) instances, a combination of hydrocodone and Soma were obtained at the same time. The usual quantity that was obtained was ninety (90) hydrocodone pills in combination of sixty (60) Soma pills. Out of those prescriptions, forty-six (46) of the seventy-five (75) were obtained using the fraudulent prescriptions allegedly written by Dr. Winkler. During this prescription search, thirty-two (32) aliases were identified. This search was only for prescriptions filled in Oklahoma as there are differing protocols to obtain the information for

controlled substance prescriptions filled in other states.

10. Your affiant was provided with information that a search of Walmart and CVS pharmacy records identified controlled substance prescriptions for MOYERS, including known aka's used by MOYERS, had also been filled by their pharmacies in South Carolina, Georgia, Illinois, Michigan, Kansas, Indiana, Alabama, and North Carolina.

11. On May 28, 2014, MOYERS was arrested at the Walmart Pharmacy located at 1225 West I-35 Frontage Road, Edmond, OK after she presented forged prescriptions bearing the prescriber name of Dr. Kyle Winkler. These prescriptions were to obtain ninety (90) tablets of hydrocodone and sixty (60) tablets of Motrin 800mg. MOYERS was previously arrested by Edmond Police Department in April 2009 and again in January 2014 for Attempting to Obtain Controlled Dangerous Substances by Fraud. In November 2013, in Oklahoma County, OK, MOYERS, aka: Kelly HAM was arrested for Obtaining Property under False Pretenses. MOYERS failed to appear on this case and a subsequent Oklahoma County failure to appear warrant was issued on April 29, 2014. This warrant was outstanding at the time of her arrest on May 28, 2014.

12. In a *Mirandized* post-arrest interview, MOYERS was presented with the prescription history reports. MOYERS explained that Dr. Winkler was the only doctor she forged and that all the other doctors listed had issued her the prescriptions. MOYERS stated she became addicted to the drugs after a 2004 back injury and was terminated from her employment as a college professor when she was arrested for obtaining prescription drugs. MOYERS said she had also been arrested in Charleston, South Carolina for obtaining prescription drugs. A review of MOYERS' criminal history lists a 2009 deferred adjudication for Attempting to Obtain a Controlled Dangerous Substance by Forged Prescription in Oklahoma County, OK. MOYERS

denied selling or sharing any of the drugs and stated she consumes seventy (70) to ninety (90) hydrocodone tablets per day. When asked the location of her Michigan driver's license, MOYERS said she cut it up in order to stop doing what she was doing. When asked about out-of-state prescriptions, MOYERS explained she filled prescriptions in other states, namely South Carolina when visiting family in the area.

13. I asked pharmacist Garrett about MOYERS' claim that she personally was consuming seventy (70) to ninety (90) hydrocodone tablets a day and the pharmacist indicated consumption of that quantity would lead to death. A review of the prescription history searches from June 1, 2013, to the present shows that in Oklahoma she had obtained approximately 10,213 hydrocodone tablets and 3,446 Soma tablets. Some of those were obtained by using eighty-one (81) fraudulent Dr. Winkler prescriptions.


14. Based on my training and experience of the use of hydrocodone and Soma, it is my belief that MOYERS could not have personally consumed this quantity of controlled substances during that time period as she has claimed and believes that, aside from any personal consumption, the remainder of those controlled substances were obtained with the intent to distribute same.

15. On May 29, 2014, while under arrest, MOYERS led law enforcement to believe that she was suffering a seizure. She was transported to a nearby medical hospital. MOYERS subsequently escaped from the hospital sometime during the night. On June 2, 2014, Lincoln County Sheriff deputies arrested MOYERS at her mobile home located in Wellston, Oklahoma. It appeared to the deputies that the house was being packed up as if the residents were preparing to leave. MOYERS again tried to indicate she was having a seizure.

16. This Affidavit is made in support of an arrest warrant for Kelly Lee MOYERS for violations of Title 21, United States Code, Section 841(a)(1) which makes it a federal offense to

knowingly or intentionally possess with intent to distribute a controlled substance and Title 21, United States Code, Section 843(a)(3) which makes it a federal offense to knowingly or intentionally acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

Further your affiant sayeth not.

  
\_\_\_\_\_  
GARY D. LAWSON  
Investigator  
Drug Enforcement Administration

SUBSCRIBED and SWORN to before me this 30 day of June, 2014.

  
\_\_\_\_\_  
SUZANNE MITCHELL  
UNITED STATES MAGISTRATE JUDGE

**CRIMINAL COVER SHEET**

U.S. District Court, Western District of Oklahoma

Petty ☐ Misdemeanor ☐ Felony ☒Case No. M-14-208-SMNumber of Counts 3 Number of Defendants 1 USAOID No. \_\_\_\_\_ By: \_\_\_\_\_**COMPLAINT**Sealed: Yes ☐ No ☒OCDETF: Yes ☐ No ☒Notice ☐ Summons ☐ Writ ☐ Warrant ☒ to Issue

<b>DEFENDANT: KELLY LEE MOYERS</b>			
Alias(es): a/k/a Kelly Ham		Address: Wellston, Oklahoma 74881	
		Phone:	
Age&DOB: 1969	SS#: xxx-xx-8489	Juvenile: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Interpreter: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
SEX: M <input type="checkbox"/> F <input checked="" type="checkbox"/>	RACE: CAUCASIAN	Language/Dialect: ENGLISH	

**Defendant Status:**

<input type="checkbox"/> Not in Custody	Type of Bond Recommended on this Charge: OR <input type="checkbox"/> Cash <input type="checkbox"/> 10% <input type="checkbox"/> Unsecured <input type="checkbox"/> Surety <input type="checkbox"/>
Bond set at: \$ _____ Date: _____ Current Bond on Other Charge Federal <input type="checkbox"/> State <input type="checkbox"/>	Bond in Amount of: \$ _____
<input checked="" type="checkbox"/> In Jail at: Oklahoma City Jail	Under Prisoner/Register No.: _____ Detention <input checked="" type="checkbox"/>

**Prior Proceedings or Appearance(s) Before U.S. Magistrate Judge:**

Case No. M-	Government Motion to Detain: Yes <input type="checkbox"/> No <input type="checkbox"/>
Complaint: Yes <input type="checkbox"/> No <input type="checkbox"/>	Bond Set: _____ Date: _____

**Related Case Information:**

Previous Case No.	Rule 20/Rule 5 from District of :
Additional Defendants: Yes <input type="checkbox"/> No <input type="checkbox"/>	Total Number of defendants:

**Attorney Information:**

Defense Counsel:	AUSA: KERRY BLACKBURN	
Address:	Phone: [REDACTED]	Fax: [REDACTED]
Phone:	Fax:	Federal Agent/Agency: DEA
Retained <input type="checkbox"/> CJA Panel <input type="checkbox"/> Public Defender <input type="checkbox"/>	Local Agent/Agency:	

Count(s)	USC Citation(s)	Offense(s) Charged	Penalty
1	21 USC § 841(a)(1)	Possession of a Controlled Substance with Intent to Distribute	[21 USC § 841(b)(1)(E)(i) - Schedule III] NMT 10 yrs. imprisonment; a \$500,000 fine; O/B; NMT 3 yrs. supervised release; and a \$100 special assessment.
2	21 USC § 841(a)(1)	Possession of a Controlled Substance with Intent to Distribute	[21 USC § 841(b)(2) - Schedule IV] NMT 5 yrs. of imprisonment; a \$250,000 fine; O/B; NMT 3 yrs. supervised release; and a \$100 special assessment.
3	21 USC § 843(a)(3)	Acquire or Obtain Possession of a Controlled Substance by Misrepresentation, Fraud, Forgery, Deception, or Subterfuge	NMT 4 yrs. imprisonment; a \$250,000 fine; O/B; NMT 1 yr. supervised release; and a \$100 special assessment.

Date: 06/03/14Signature of AUSA [Signature]

800/6-97